

United States District Court

for the

Western District of New York

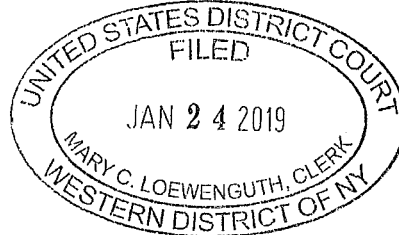
United States of America

v.

KAREN OWENS

Defendants

Case No. 19-MJ-523



AMENDED CRIMINAL COMPLAINT

I, Daniel A. Ciavarri, the complainant in this case, state that the following is true to the best of my knowledge and belief that in the Western District of New York, the defendant violated offenses described as follows:

In or around 2011 through 2017, in the County of Seneca, Western District of New York, **KAREN OWENS**, did knowingly execute a scheme to defraud for obtaining money by means of false or fraudulent pretenses, representations or promises, transmitted by means of wire communication in interstate commerce for the purpose of executing such scheme, thereby violating Title 18, United States Code, Section 1343 and knowingly executed a scheme to defraud a financial institution and to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises, thereby violating Title 18, United States Code, Section 1344 (1) and (2).

SEE ATTACHED AFFIDAVIT OF SPECIAL AGENT DANIEL A. CIAVARRI, FEDERAL BUREAU OF INVESTIGATION.

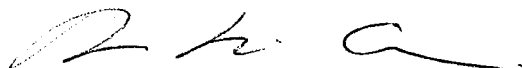
This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

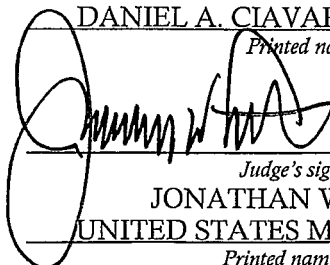
Sworn to before me and signed in my presence.

Date: January 24, 2019

City and State: Rochester, New York


Complainant's signature

DANIEL A. CIAVARRI, Special Agent, FBI
Printed name and title


Judge's signature
JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) ss:
CITY OF ROCHESTER)

I, DANIEL A. CIAVARRI, hereinafter referred to as "your affiant," having been duly sworn, do hereby depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been employed in that capacity for over 7 years. I am currently assigned to the Buffalo Division, Rochester Resident Agency in Rochester, New York. I have been involved in investigations and received training on a variety of criminal violations including bank fraud, wire fraud, money laundering and public corruption.

2. The information contained in this affidavit is based upon my personal knowledge and observation, my training and experience, conversations with other law enforcement officers and witnesses, as well as my review of documents and records related to this case.

3. This affidavit is made in support of a criminal complaint, charging KAREN OWENS (hereinafter "OWENS"), with Wire Fraud, in violation of Title 18, United States Code, Section 1343, and Bank Fraud, in violation of Title 18, United States Code, Section 1344(1) and (2).

4. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause to arrest

OWENS for wire fraud and bank fraud. Unless specifically indicated, all conversations and statements described in this affidavit are related in substance and in part.

5. As a result of the investigation described more fully below, there is probable cause to believe that OWENS has engaged in one or more violations of 18 U.S.C. § 1343 (Fraud by Wire) and 18 U.S.C. §§ 1344(1) and (2) (Bank Fraud).

BACKGROUND OF INVESTIGATION

6. On August 27, 2017, the Owner of Finger Lakes Conveyors, Incorporated (hereinafter "FLC"), located at 2359 Route 414, Waterloo, New York, which is in the Western District of New York, was interviewed by your affiant. The Owner provided, in sum and substance, that OWENS was an employee of FLC since approximately 2003. OWENS worked as the Finance Director of FLC and ultimately had responsibility over accounts receivables, accounts payables, and human resource duties.

7. On or about August 26, 2017, the Owner of FLC became aware of discrepancies with regard to the balance on a company credit card and what OWENS was reporting in the accounting records. After conducting an in depth review the Owner discovered that over multiple years OWENS had executed a scheme in which she wrote checks from FLC to herself without authorization. OWENS disguised some of these unauthorized payments by falsely recording them in FLC's QuickBooks ledger system as payments to FLC's vendors. Other unauthorized checks were not recorded at all. Through the course of the investigation it was also determined that OWENS was writing unauthorized checks to Chase Bank to pay off a credit card she had opened in her name.

8. As a result of OWENS's scheme and false representations, she obtained significant funds that had been deposited in FLC's account at Five Star Bank, a federally insured financial institution.

9. As part of the scheme, OWENS incurred significant credit card debt at various merchants, including but not limited to JC Penney, Chase Card services, Gap Inc., and American Eagle. Financial information obtained through the course of the investigation indicates that in order to satisfy portions of these debts, OWENS would deposit checks written to herself from FLC's Five Star Bank account. On numerous occasions OWENS used these funds to pay JP Morgan Chase Card services utilizing JP Morgan Chase's on-line payment system. Information obtained from JP Morgan Chase indicates that payments made from this on-line payment system traveled interstate.

10. On August 29, 2017, OWENS was interviewed by your affiant outside the Ramada Plaza Hotel in Geneva, NY. OWENS admitted to stealing money from FLC from as early as 2011. With regard to the money she took, OWENS stated she thought she would "take it once and then put it back". OWENS further stated that she did not put the money back but rather used the funds to pay off debt and for other living expenses. When asked how she concealed the fraud, OWENS advised that she would make a check out to herself and then either write the amount in QuickBooks as a different expense to a legitimate vendor or not record the check at all.

11. On October 17, 2017, OWENS executed an Affidavit of Confession of Judgment in favor of FLC in the amount of One Million Three Hundred Seventy Nine Thousand Four Hundred and Forty Five Dollars and Three Cents (\$1,379,334.03). The

signed Confession of Judgment contains OWENS's admission that "[b]eginning in 2004, [she] began taking money from FLC through writing [herself] checks from the company's account, or writing checks from the company's account in payment of [her] personal credit debt to Chase Credit Services" and "[she] continued writing checks to [herself] and to Chase Credit Services, without the knowledge of FLC, or any of its owners or other employees until [her] employment was terminated in August 2017."

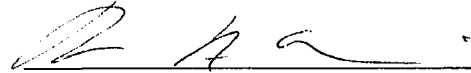
12. A review of financial records obtained during the course of this investigation revealed that from May 2011 through August 2017, approximately \$550,000 in checks were written from FLC's Five Star Bank account to OWENS personally and deposited into her bank account at Community Bank, NA.

13. Based upon financial records obtained from the Owner, in excess of \$370,000 in funds were paid from FLC's Five Star Bank account to credit card accounts owned by OWENS or affiliated with OWENS.

CONCLUSION

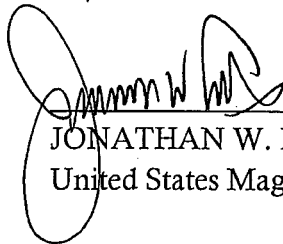
14. Based upon the forgoing, your affiant respectfully submits that there is probable cause to believe that KAREN OWENS knowingly executed a scheme to defraud for obtaining money by means of false or fraudulent pretenses, representations or promises, transmitted by means of wire communication in interstate commerce for the purpose of executing such scheme, thereby violating Title 18, United States Code, Section 1343 and knowingly executed a scheme to defraud a financial institution and to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial

institution, by means of false or fraudulent pretenses, representations, or promises, thereby violating Title 18, United States Code, Section 1344 (1) and (2).



DANIEL A. CIAVARRI
Special Agent
Federal Bureau of Investigation

Sworn to before me this
24 day of January, 2019.



JONATHAN W. FELDMAN
United States Magistrate Judge

AFFIDAVIT OF CONFESSION OF JUDGMENT

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

Karen Owens, being duly sworn, deposes and says that:

1. I reside in the County of Ontario, State of New York.
2. Finger Lakes Conveyors, Inc. is a domestic corporation located in Waterloo, Seneca County, New York. Michael Gelder is the owner of Finger Lakes Conveyors and resides in Ontario County.
3. I hereby confess judgment under CPLR §3218 in favor of Finger Lakes Conveyors, Inc. (hereinafter "FLC") for the sum of one million three hundred seventy nine thousand four hundred forty five dollars and three cents (\$1,379,445.03) against myself personally. I hereby authorize FLC, its assigns or representatives to enter judgment against me in the Ontario County and Monroe County Clerk's Offices for the sum set forth above in the event FLC does not receive total payment from me of one million three hundred seventy nine thousand four hundred forty five dollars and three cents (\$1,379,445.03), in accordance with the following terms:
 - a. On or before November 15, 2017, I will make a payment to FLC in the amount of one hundred thirty thousand dollars (\$130,000), by mailing a bank check in that amount payable to "Finger Lakes Conveyors, Inc." via registered mail, return receipt requested, to 2359 Route 414, Waterloo, New York, 13165.
 - b. On or before December 29, 2017, I will make a payment to FLC in the amount of seventy thousand dollars (\$70,000), by mailing a bank

check in that amount payable to "Finger Lakes Conveyors, Inc." via registered mail, return receipt requested, to 2359 Route 414, Waterloo, New York, 13165.

- c. Beginning on November 1, 2017, I will begin making monthly payments to FLC in the amount of \$500. These monthly payments, in the amount of five hundred dollars (\$500), will be made by mailing a bank check in that amount payable to "Finger Lakes Conveyors, Inc." via registered mail, return receipt requested, to 2359 Route 414, Waterloo, New York, 13165.

4. If the payments due on November 15, 2017 and December 29, 2017, are not received by FLC within two (2) days of their due date, FLC is immediately authorized to file this Affidavit of Confession of Judgment.

5. If each of the monthly payments of five hundred dollars (\$500) are not received within three (3) days of the first day of each month, beginning November 1, 2017, FLC is authorized to file this Affidavit of Confession of Judgment, minus any payments made by me to date.

6. This Affidavit of Confession of Judgment is for a debt justly due to FLC arising out of the following facts.

- a. In April 2003, I became employed with FLC as the person in charge of the company's accounts payable and receivable, along with human resources and other duties.
- b. Beginning in 2004, I began taking money from FLC through writing myself checks from the company's account, or writing checks from the

company's account in payment of my personal credit card debt to Chase Credit Services.

- c. I continued writing checks to myself and to Chase Credit Services, without the knowledge of FLC, or any of its owners or other employees until my employment was terminated in August 2017.
- d. I have agreed to pay interest due on the above-described debt, at the rate of 4.5% from the date that I used and converted funds from FLC's bank account. The total amount of this debt attributable to interest is two hundred thirty thousand nine hundred twenty five dollars and ninety five cents (\$230,925.95).
- e. As a result of converting funds from the FLC account to me personally, I owe FLC the considerable debt described above.

7. I have no defenses to the debt described above.

8. As a result, FLC suffered a loss in the amount of one million three hundred seventy nine thousand four hundred forty five dollars and three cents (\$1,379,445.03).

9. This Affidavit of Confession of Judgment is executed to effectuate a compromise of the debt I owe to FLC. In that regard, FLC and I have executed a settlement agreement on October 26, 2017 (hereinafter the "Settlement Agreement"). I, by the terms of the Settlement Agreement, agreed to execute this Affidavit of Confession of Judgment on behalf of myself in favor of FLC.

10. There is due and owing from me to FLC, the sum of one million three hundred seventy nine thousand four hundred forty five dollars and three cents (\$1,379,445.03).

11. This Confession of Judgment is NEITHER FOR THE PURPOSE OF SECURING FLC AGAINST A CONTINGENT LIABILITY NOR AN INSTALLMENT LOAN WITHIN THE PROHIBITION OF CPLR § 3201.



Karen Owens

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

On the 26th day of October in the year 2017 before me, the undersigned, personally appeared Karen Owens, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

ROBERT W. ZIMMERMAN
Notary Public, State of New York
Ontario County Reg. #02214769640
Commission Expires 06/30/2018

**Ontario County Clerk Recording Page****Return To****Matthew J. Hoose, County Clerk**

Ontario County Clerk
20 Ontario Street
Canandaigua, New York 14424
(585) 396-4200

Document Type: **JUDGMENT**

Receipt Number: 342649

Party 1

OWENS, KAREN

Party 2

FINGER LAKES CONVEYORS INC

Fees

Total Fees Paid: \$0.00

Control #: 201802130132
Ref #: JN 2018 000454
Ref #: J 2018 000712
Index #: 117188-2018

State of New York
County of Ontario

Efiling through NYSCEF with a total page count of
4.

A handwritten signature in black ink that reads "Matthew J. Hoose".

Ontario County Clerk

This sheet constitutes the Clerk's endorsement required by section 319 of the Real Property Law of the State of New York

PK

Do Not Detach

FINAL JUDGMENT

STATE OF NEW YORK)
COUNTY OF ONTARIO) ss.:

Index No. 117188-2018

Based upon the Settlement Agreement and Affidavit of Confession of Judgment under CPLR §3218, which were executed by Karen Owens, who resides at 30 North Main Street, Phelps, New York 14532 on October 26, 2017 in favor of Finger Lakes Conveyors, Inc. (hereinafter "FLC"), located at 2349 Route 414, Waterloo, New York 13165 for the sum of one million three hundred seventy nine thousand four hundred forty five dollars and three cents (\$1,379,445.03), copies of which are filed herewith; and

The Affidavit Regarding Events Subsequent to the Execution of Karen Owens' Affidavit of Confession of Judgment, which was sworn to by Michael Gelder on behalf of FLC on February 12, 2018, which states that Mrs. Owens paid FLC a total of one hundred and thirty two thousand dollars (\$132,000) of the outstanding debt owed, reducing the total amount due on the Affidavit of Confession of Judgment to FLC to one million two hundred forty seven thousand four hundred forty five dollars and three cents (\$1,247,445.03), plus additional interest accrued to date;

NOW it is ADJUDGED that Mrs. Owens owes FLC a total of one million two hundred forty seven thousand four hundred forty five dollars and three cents (\$1,247,445.03), plus additional interest at the statutory rate of 9% that has accrued to

Wolford Law Firm
16 E. Main St.
Rochester, NY 14614

date in the amount of thirty three thousand five hundred twenty seven dollars and twenty two cents (\$33,527.22), plus costs and fees in the amount of \$210 (in payment of the Index number fee), for a total sum due and owing of one million two hundred eighty thousand one hundred eighty two dollars at twenty five cents (\$1,281,182.25).

2/13/18 Matthew J. Horse
ONTARIO COUNTY CLERK
By Pamela Keefe, act dep clk

STATEMENT FOR JUDGMENT

Index No. 117188-2018

COSTS AND ADDITIONAL INTEREST

Fee for Index Number:	\$210
Additional Interest accrued since October 26, 2018	\$33,527.22
 TOTAL COSTS AND ADDITIONAL INTEREST:	 \$33,737.22
 GRAND TOTAL OF JUDGMENT ENTERED BY CLERK:	 \$1,281,182.25